

**IN THE MATTER OF: THE SECURITIES ACT**

**-and-**

**IN THE MATTER OF: CIBC WORLD MARKETS INC.  
LORI DIANE JOHNSON AND  
GORDON JOSEPH WIMBLE**

**STATEMENT OF ALLEGATIONS OF STAFF OF  
THE MANITOBA SECURITIES COMMISSION**

**STAFF OF THE MANITOBA SECURITIES COMMISSION ALLEGE, INTER ALIA,  
THAT:**

**A. REGISTRATION**

1. Lori Diane Johnson (“JOHNSON”) is a resident of the City of Winnipeg, in the Province of Manitoba.
2. Gordon Joseph Wimble (“WIMBLE”) is a resident of the City of Winnipeg, in the Province of Manitoba.
3. CIBC World Markets Inc. is registered under *The Securities Act* (the “Act”) as an investment dealer.
4. CIBC World Markets Inc. was previously registered as an investment dealer under the name CIBC Wood Gundy Securities Inc. (CIBC World Markets Inc. and CIBC Wood Gundy Securities Inc. are hereinafter referred to as “CIBC”).
5. JOHNSON was first registered under the Act as a salesperson on January 25, 1995 and at all material times was registered as a salesperson with CIBC.
6. WIMBLE at all material times was registered under the Act as a branch manager and trading officer with CIBC.

**B. SUPERVISION AND COMPLIANCE**

1. CIBC at all material times operated and continues to operate its head office at Toronto, Ontario, and has a branch office located in the City of Winnipeg (“Winnipeg Branch”).
2. WIMBLE at all material times was the Branch Manager of the Winnipeg Branch.
3. Both CIBC and WIMBLE had and continue to have a role in the ongoing monitoring of client accounts as well as the monitoring of the activities of salespersons in the employ of CIBC.

### **C. DETAILS**

Client - R.K. and B.K.

1. In or about June, 1999, R.K. and B.K. became clients of JOHNSON.
2. A number of accounts were opened in B.K.'s and R.K.'s name. For each account, a Know Your Client ("KYC") form was completed by JOHNSON which included objectives and risk tolerance for each account.
3. The accounts opened by R.K. and B.K. included, but are not limited to, the following accounts:

<b>Account No.</b>	<b>Type</b>	<b>Owner</b>	<b>Objectives</b>	<b>Risk Tolerance</b>	<b>Initial Investment</b>
552-48673	LIRA	R.K.	100% long term gain	Low – 0% Med – 80% High – 20%	\$151,631.18 *
552-41904	RRSP	R.K.	100% long term gain	Low – 0% Med – 80% High – 20%	\$77,152.79 **
551-76519	LIRA	B.K.	100% Long term gain	Low – 10% Med – 80% High – 10%	\$66,414.34 ***

\* as of August 23, 1999

\*\* as of July 30, 1999

\*\*\* as of October 28, 1999

4. Prior to opening accounts at CIBC with JOHNSON as his advisor, R.K.'s investing experience was investing through a self directed brokerage account.
5. Prior to opening accounts at CIBC with JOHNSON as her advisor, B.K.'s investing experience was investing in bonds and mutual funds.
6. When R.K. and B.K. met JOHNSON, they were ages 51 and 48 respectively. R.K. and B.K. advised JOHNSON they :
  - o Retired from their jobs in Winnipeg
  - o Planned to move to Seattle, Washington so R.K. could work for a few years;
  - o Would return to Canada in a few years in order to retire in Canada.
7. Prior to leaving Canada, R.K. and B.K. advised JOHNSON they had to liquidate their assets which, in turn, they wished to invest with JOHNSON and have her provide investment advice on.

8. R.K. and B.K. held their accounts at CIBC for the period of 1999 to 2002 with JOHNSON as their registered representative.

9. During the period 1999 – 2002, JOHNSON made numerous recommendations to R.K. and B.K. as to securities to hold within their accounts. Many of the trades occurring in R.K. and B.K.'s accounts were while R.K. and B.K. were resident in Seattle, Washington where JOHNSON was not licensed to trade in securities.

10. During the period 1999 – 2002, R.K. and B.K.'s accounts became overweight in technology based equities due to JOHNSON's advice.

11. As a result, the risk level in R.K. and B.K.'s foregoing accounts increased and the portfolios became unsuitable based on R.K. and B.K.'s risk profiles.

12. R.K. and B.K.'s risk profile was not updated while their accounts were held at CIBC.

13. R.K. and B.K. suffered losses in their accounts and in 2002 they transferred their accounts from CIBC to another dealer.

Client – T.P.

14. In or about February, 2001, T.P. became a client of JOHNSON.

15. When T.P. became a client of JOHNSON, he completed a KYC form which identified his objectives and risk tolerances. Particulars of T.P.'s account is as follows:

<b>Account No.</b>	<b>Type</b>	<b>Objectives</b>	<b>Risk Tolerance</b>	<b>Initial Investment</b>
552-69204	RRSP	100% long term gain	Low risk - 0% Med. risk – 90% High risk – 10%	\$24,500.52*

\* as of February 21, 2001

16. Prior to investing with JOHNSON, T.P.'s prior investing experience was investing in mutual funds.

17. When T.P. opened his account at CIBC, he advised JOHNSON he was 50 years old and wanted to retire early.

18. T.P. held his account at CIBC for the period 2001 – 2004 with JOHNSON as his registered representative.

19. During the period 2001 – 2003, T.P. contributed a further \$17,000.00 to his account.

20. During the period 2001 – 2003, JOHNSON made numerous recommendations to T.P. as to the securities he should hold in his account. T.P. followed this advice.

21. During the period 2001 – 2003, T.P., on JOHNSON's advice, purchased mutual funds and increased the high risk holdings in his account beyond the 10% high risk component identified in his KYC form. As a result, T.P.'s account became over weighted in high risk mutual funds.

22. T.P.'s risk profile on his KYC form was not updated while the account was held at CIBC.

23. T.P. suffered losses in his account while held at CIBC.

Client – S.P.

24. In or about November, 1999, S.P. became a client of JOHNSON.

25. When S.P. became a client of JOHNSON, she completed a KYC form which identified her objectives and risk tolerances. Particulars of S.P.'s accounts are as follows:

<b>Account No.</b>	<b>Type</b>	<b>Objectives</b>	<b>Risk Tolerance</b>	<b>Initial Investment</b>
710-08092	Margin/open	50% - medium term 50% - long term gain	Medium risk 100%	\$28,968.99 *
552-49056	RRSP	50% - medium term 50% - long term gain	Medium risk 100%	\$84,360.59 **

\* as of December 31, 1999

\*\* as of December 31, 1999

26. Prior to investing with JOHNSON, S.P. did not have any experience choosing her own investments other than GICs.

27. When S.P. opened her accounts at CIBC, she advised JOHNSON the money being transferred into these accounts were her life savings, she did not wish to lose any of the principal and that she wanted to retire at age 62.

28. S.P. was 57 years of age when she became a client of JOHNSON.

29. S.P. did not know what a margin account was when she opened accounts at CIBC with JOHNSON as her registered representative.

30. Between 2000 – 2002, the sum of \$3,854.00 was added to S.P.'s RRSP account. The sum of \$107.00 was added to the non RRSP account during this period and \$5,024.00 was withdrawn from the non RRSP account during this period.

31. S.P. had her accounts at CIBC for the period 1999 – 2002 with JOHNSON as her registered representative.

32. During the period 1999 – 2002, JOHNSON made numerous recommendations to S.P. concerning the securities she should hold in her accounts. S.P. followed this advice.

33. During the period JOHNSON was S.P.'s advisor, S.P.'s accounts became over weighted with mutual funds which exceeded her medium risk profile and which were unsuitable for S.P.

34. S.P.'s risk profile on her KYC form was not updated while a client at CIBC.

35. S.P. suffered losses in her account held at CIBC and subsequently in 2002 transferred her accounts from CIBC.

Client – G.L. and K.L.

36. G.L. and K.L. became clients of JOHNSON in February, 2000.

37. When G.L. and K.L. became clients of JOHNSON, they completed a KYC form which identified their objectives and risk tolerance. Particulars of G.L. and K.L.'s accounts opened at CIBC with JOHNSON as their registered representative are as follows:

<b>Account No.</b>	<b>Type</b>	<b>Owner</b>	<b>Objectives</b>	<b>Risk Tolerance</b>	<b>Initial Investment</b>
710-08248	Margin/cash	G.L. and K.L.	50% mid-term 50% - long term growth	Low – 0% Med – 90% High – 10%	\$421,741.25 *
710-08338	Cash	G.L. and K.L. (ITF SA)	100% long term growth	Med – 100%	\$16,382.03 **
710-08337	Cash	G.L. and K.L. (ITF SAB)	100% long term growth	Med – 100%	\$14,340.36 ***

\* as of March 3, 2000

\*\* as of March 31, 2000

\*\*\* as of March 31, 2000

38. Prior to investing with JOHNSON, G.L. and K.L.'s investment experience was limited to investing in mutual funds.

39. G.L. and K.L. told JOHNSON they wanted the majority of their holdings in mutual funds and a small percentage in equities.

40. Approximately one month after accounts were opened at CIBC, JOHNSON advised G.L. and K.L. to open a margin account in case something came up to buy and they did not have cash in the bank for such purchases.

41. G.L. and K.L. agreed to JOHNSON's suggestion of opening a margin account with the understanding they would be taking on no more than \$40,000.00 worth of margin and that JOHNSON would let them know whether or not the margin was being used for any transaction.

42. In or about December, 2000, G.L. received a statement from CIBC which indicated an entry for approximately -\$85,000.00. When G.L. questioned JOHNSON, JOHNSON advised G.L. that was in relation to margin.

43. Other than authorizing a margin purchase for approximately \$9,000.00 in November, 2000, G.L. and K.L. did not authorize JOHNSON to use the margin account to purchase securities.

44. G.L. and K.L. met with JOHNSON concerning the margin in their account. They questioned JOHNSON about the amount of margin in their account and JOHNSON admitted she made a mistake.

45. G.L. and K.L. agreed with JOHNSON that they would pay off \$40,000.00 of the margin, but JOHNSON would have to pay interest on the remaining margin and when the securities purchased on margin reached their book value, they would be used to pay off the outstanding margin.

46. In addition, JOHNSON agreed to pay interest paid by G.L. and K.L. on margin balances accumulated prior to the foregoing meeting.

47. G.L. and K.L. paid off \$40,000.00 of the margin by August 2001. JOHNSON continued to pay interest on the outstanding margin for a period of time.

48. Between February 2000 – 2003, JOHNSON made numerous recommendations to G.L. and K.L. concerning securities to hold in their accounts. G.L. and K.L. followed JOHNSON's recommendations.

49. During the period JOHNSON was G.L. and K.L.'s advisor, their accounts were invested in certain mutual funds which were unsuitable given G.L. and K.L.'s risk levels as indicated on the KYC forms.

50. As a result of the foregoing, G.L. and K.L. suffered losses in their account at CIBC.

51. G.L. and K.L.'s KYC forms were not updated while they held accounts at CIBC.

52. In or about March, 2003, G.L. and K.L. were told by JOHNSON that K.L. agreed that she and G.L. would pay 20% of the interest on the outstanding margin. G.L. and K.L. disputed this and made a complaint to CIBC concerning JOHNSON.

53. WIMBLE, as Branch Manager, was aware of the circumstances relating to G.L. and K.L.'s margin account. He was further aware that JOHNSON was paying interest on the outstanding margin.

54. WIMBLE met with G.L. and K.L. on or about April 1, 2003 to discuss concerns relating to their accounts. At this meeting, WIMBLE indicated he would come up with a plan to correct this mistake concerning the margin account and to make G.L. and K.L. whole. WIMBLE indicated he would advise G.L. and K.L. of the plan.

55. WIMBLE met with G.L. and K.L. twice in May, 2003 to discuss the outstanding margin. WIMBLE provided a plan to deal with the outstanding margin which included having G.L. and K.L. selling securities to pay towards the margin and Wimble issuing a personal cheque to G.L. and K.L. for the outstanding margin. WIMBLE acknowledged mistakes were made concerning the handling of the margin account, was concerned for his job and indicated if G.L. and K.L. did favours for him, he would do favours for them. WIMBLE further suggested the matter be concealed from the authorities.

56. On or about May 20, 2003, WIMBLE e-mailed G.L. and K.L. renouncing his earlier suggestion to conceal the matter from the authorities.

57. G.L. and K.L. settled outstanding matters concerning their accounts with CIBC.

#### **D. COMPENSATION FOR FINANCIAL LOSS**

The Director, Legal and Enforcement ("Director") of the Commission has received an application for a claim against CIBC, JOHNSON and WIMBLE for compensation for financial loss in favour of R.K., B.K., T.P. and S.P. The Director requests that the Commission order financial loss compensation to the claimant in an amount to be determined at or prior to the hearing.

#### **E. ALLEGATIONS**

1. Staff of the Commission allege that JOHNSON:

- a) Recommended unsuitable investments to the foregoing clients given the clients' personal, financial circumstances and risk tolerances;
- b) Failed to follow the Know Your Client rule;
- c) Conducted trades in the account of G.L. and K.L. with unauthorized use of margin;
- d) Engaged in personal financial dealings with G.L. and K.L.;
- e) Failed to understand the risk associated with investments she recommended to clients;

f) Failed to follow instructions from her clients;

g) Conducted trades in R.K. and B.K.'s accounts while they were resident in Seattle, Washington, U.S.A.;

h) Failed to act in the best interests of her clients;

and due to any or all of the foregoing allegations, JOHNSON acted contrary to public interest, and that pursuant to section 8 of the Act, as to her registration JOHNSON be reprimanded or suspended, or terms or conditions be attached to her registration, and that pursuant to section 148.1 of the Act, an administrative penalty be ordered against JOHNSON, and that furthermore pursuant to section 148.2(3) of the Act, JOHNSON pay R.K., B.K., T.P. and S.P. compensation for financial loss.

2. Staff of the Commission allege that WIMBLE:

a) failed to detect on a timely basis, or at all, the extent of unsuitable securities, overconcentration of securities and unacceptable use of margin in the foregoing accounts of clients of JOHNSON;

b) failed to detect on a timely basis the actions of JOHNSON;

c) failed to act in a timely and effective manner when potential problems regarding the accounts of R.K., B.K., T.P., S.P., G.L. and K.L. were identified;

d) engaged in personal dealings with respect to the accounts of G.L. and K.L.;

e) failed to act in the best interests of the above clients;

and due to any or all of the foregoing allegations, WIMBLE acted contrary to the public interest and pursuant to section 8 of the Act as to his registration, WIMBLE be reprimanded, terms and conditions on his registration be imposed and/or his registration be suspended, and that pursuant to section 148.1 of the Act an administrative penalty be ordered against WIMBLE, and that furthermore pursuant to section 148.2(3) of the Act, WIMBLE be ordered to pay R.K., B.K., T.P. and S.P. compensation for financial loss.

3. Staff of the Commission allege that CIBC:

a) failed to detect on a timely basis, or at all, the extent of unsuitable securities, overconcentration of securities and unacceptable use of margin in the foregoing accounts of clients of JOHNSON;

b) failed to detect on a timely basis the actions of JOHNSON and WIMBLE;



c) failed to act in a timely and effective manner when potential problems regarding the accounts of R.K., B.K., T.P., S.P., G.L. and K.L. were identified;

d) failed to act in the best interests of the foregoing clients;

and due to any or all of the foregoing allegations, CIBC acted contrary to the public interest and that pursuant to section 8 of the Act as to its registration, CIBC be reprimanded, terms and conditions on its registration be imposed and/or its registration be suspended, and that pursuant to section 148.1 of the Act an administrative penalty be ordered against CIBC, and that furthermore pursuant to section 148.2(3) of the Act, CIBC be ordered to pay R.K., B.K., T.P. and S.P. compensation for financial loss, or alternatively, pursuant to section 148.2(4) of the Act, CIBC be ordered to jointly and severally pay R.K., B.K., T.P. and S.P. compensation for financial loss.

4. SUCH FURTHER AND OTHER MATTERS as counsel may advise and the Commission may permit.

DATED at Winnipeg, Manitoba this 22nd day of April, 2009.

**Director, Legal and Enforcement**

**TO: LORI DIANE JOHNSON**

**AND TO: CIBC WORLD MARKETS INC.**

**AND TO: GORDON JOSEPH WIMBLE**